

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/014,153 Confirmation No. 9451

Appellant : Timo VIERO

Filed : November 6, 2001

Art Unit : 2416

Examiner : NGUYEN, Phongchau

Docket No. : 090493

Customer No. : 23696

REPLY BRIEF ON APPEAL UNDER 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Further to the Examiner's Answer dated October 15, 2010, in connection with the above-identified application on appeal, the Appellant respectfully submits this Reply Brief on Appeal. Please charge any fees or credit any overpayments that may be due with this Brief to Deposit Account No. 17-0026.

REMARKS

The Examiner's Answer attempts to expound upon the Examiner's prior position in both the "Grounds of Rejection" section (9), which adds details to the rejections beyond those presented in the Final Office Action, and the "Response to Argument" section (10). Nevertheless, the rejections essentially maintain the same erroneous and unreasonable interpretations underlying the Examiner's previous arguments, and Appellant maintains the positions detailed in the July 23, 2010, Appeal Brief. However, because the Examiner has attempted to recast his prior position in several ambiguous and potentially misleading statements, Appellant has been compelled to submit this Reply Brief and clarify such statements.

For example, on page 22 of the Examiner's Answer, the Examiner states that "Kanterakis was combined to further detail that the remote/mobile station selected the length of the access slots from the available access slots based on the amount of data that the mobile needed to transmit; in other word, the mobile would need to adjust its selection of access slots in variable length based on its needed of bandwidth for transmitting its data size" (emphasis added). To be clear, Kanterakis teaches only that "[t]he length of the access burst is variable and the length of the access burst is allowed to vary from a few access slots to many frame durations." *Kanterakis*, col. 7, lines 32-35. The Board should not be misled into thinking that the length of the access slots themselves is variable, which is simply erroneous. The access burst is allowed to vary because it contains a variable number of access slots, but the length of each constituent access slot itself is fixed.

Thus, it is more correctly stated that Kanterakis teaches selecting how many of the predefined access slots to use for a given transmission burst. Again, however, simply allowing

the number of constituent access slots to vary for different bursts clearly does not change the definition of the allowed access slots advertised by the base station. Even under the Examiner's proposed combination, the base station in Papovic would still broadcast the same "[i]nformation on what access slots are available in the current cell," and this information would still be fixed, in contrast to the dynamically adjustable parameter claimed.

For at least such reasons, and as explained in more detail in the July 23, 2010, Appeal Brief, the particular inferences drawn by the Examiner and raised on appeal are unreasonable, unwarranted, and in direct conflict with both the claims and the references relied upon. Because the fundamental issues remain unchanged, Appellant will respectfully forgo any further discussion here, and simply directs the Board to the July 23, 2010, Appeal Brief for a more detailed discussion of Papovic and Kanterakis, the claims, and the improper nature of the Examiner's rejections.

CONCLUSION

Appellant respectfully maintains that claims 36-40, 42, 48, 53, 55-57, 59-62, 64-66, 74, 75, and 81-94 are patentable over the applied art and that all of the rejections and objections of record should be reversed.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 17-0026 for any additional fees required under 37 C.F.R. § 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

Dated:

2010-12-14

By:

Donald C. Kordich

Donald C. Kordich, Reg. No. 38,213
(858) 658-5928

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5928
Facsimile: (858) 658-2502